IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE Mr. JUSTICE C.V.RAMULU

WRIT PETITION Nos.8088 and 7722 of 1999

WRIT PETITION No.8088 of 1999

Between:

U.Chinnappa S/o U.Govindappa
4th Cross Road, M.V.Nagar, Kappagal Road,
Bellary - 583 101.

..... PETITIONER

AND

1 The Presiding Officer, Labour Court,
Guntur.
2 Cotton Corporation of India, Rep. by its Branch Manager,
Arundalpet, Guntur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an Order direction or writ particularly one in the nature of writ of Certiorari calling for the records pertaining to Award dt.25/01/1999 made in I.D.No.73/1988 on the file of the Presiding Officer, Labour Court, Guntur, in so far as denying the increments, other attendant benefits from the date of removal from service is illegal and arbitrary and consequently direct the 2nd respondent to grant increment, other attendant benefits including revision of pay scales from the date of removal from service till the petitioner attained the age of Superannuation and grant such other relief or reliefs as this Hon'ble court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: Mr. G.VIDYASAGAR

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.2: Mr. J. VENUGOPALA RAO

WRIT PETITION No.7722 of 1999

Between:

The Cotton Corporation of India Ltd. A.P.Branch Officer,

Rep. by its Branch Manager, G.R. Dulani.
Adilabad.

..... PETITIONER

AND

1 The Presiding Officer, Labour Court,
Guntur.
2 Government of A.P., Rep. by its Secretary, Labour Employment
Training and Factories (LAB-I) Department, Hyderabad,
Secretariat.
3 U. Chinnappa S/o.Govindappa
4th Cross left, M.V.Nagar, Door No. 144,
Kappagal Road, Bellary-583 101. Karnataka State.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to quash the Judgment of respondent No.1 as published by respondent No.2 in I.D.73 of 1988 dated 25-1-1999 of the Presiding Officer, Labour Court, Guntur published in G.O.Rt.409 Labour Employment Training and Factories (LAB-I) department dated 10-3-1999 which ordered to be published in the notice Board of Labour Court, Guntur on 9-4-99 by declaring the same as void, illegal, and enforce the order of removal passed against the respondent No.3 in CCI/ESTT/ADB/P-10/4002 dated 3-8-1987 passed by Disciplinary Authority-cum-Branch Manager, Adilabad and confirmed by the Appellate authority-cum-Manager(Personnel) Cotton Corporation of India Ltd., Bombay vide proceedings No. CCI/VIG/704/GUN/U.C/87, dated 8-12-1987 and to pass such an order or orders as the Hon'ble Court deems fit.

Counsel for the Petitioner: Mr. J.VENUGOPAL RAO

Counsel for Respondents 1&2: GP FOR LABOUR

Counsel for the Respondent No.3: Mr. G. VIDYASAGAR

The Court made the following :

ORAL COMMON ORDER:

W.P.No.8088 of 1999

This Writ Petition is filed by the workman being aggrieved by the Award passed by the Labour Court, Guntur in I.D.No.73 of 1988, dated 25-1-1999 so far as denying the increments and other attendant benefits from the date of removal from service and also holding that he is entitled only for last pay drawn by him on the date of removal from service.

It is the case of the petitioner that he was appointed in the service of the 2nd respondent-Corporation as Assistant Cotton Selector on 9-4-1977 and posted at Medarmetla, Guntur district. During 1983, he was promoted as Cotton Purchase Officer and posted to Gudihattanur Centre, Adialabd district. While he was working at Gudihattanur center, he was issued with a charge sheet dated 28-12-1984

enumerating the following charges:

i. That Shri U.Chinnappa while functioning as Cotton Purchase Officer and posted as Centre Incharge at Gudihatnoor center during the cotton season 1983-84 did not work with full devotion to duty and acted in a manner prejudicial to the interests of the Corporation by not conducting/taking experimental outturns as per the guidelines issued, and he has based his purchases with unrealistic outturns resulting in wide difference between budgeted and actual padhard by Rs.243/- per candy.

ii. That Shri U.Chinnappa while functioning as Cotton Purchase Officer and posted as Centre Incharge at Gudihatnoor center during the cotton season 1983-84 did not work with full devotion to duty and acted in a manner prejudicial to the interests of the Corporation by not maintaining heapwise results. He was instructed to maintain heapwise for guidance for future purchase, but contrary to it he willfully neglected the instructions and continued purchases without maintaining heapwise results resulting into abnormal shortages, and high Padthar thereby resulting huge loss to the Corporation.

iii. That Shri U.Chinnappa while functioning as Cotton Purchase Officer and posted as Centre Incharge at Gudihatnoor center during the cotton season 1983-84 did not work with full devotion to duty and acted in a manner prejudicial to the interests of the Corporation and did not work without responsibility, which resulted into high percentage of processing shortages by way of gins to process, and wide difference between the budgeted and actual podha to the extent of Rs.243/- per candy in case of H-4 variety.

After conducting a detailed enquiry into the matter, the petitioner was removed from service. Aggrieved by the same, he preferred an appeal and the same was dismissed by Proceedings dated 8-12-1997 by the appellate authority. The Mercy Petition filed thereafter was also rejected by the Chairman and Managing Director of the Corporation on 5-1-1988. Thereafter, he raised an industrial dispute under Section 2-A(2) of the Industrial Disputes Act,1947 (for short 'the Act') before the Labour Court, Guntur and the same was taken on file as I.D.No.73 of 1988. Before the Labour Court, the Management filed a counter (rejoinder) denying the allegations made by the petitioner. The petitioner-workman did not adduce any oral or documentary evidence, but the respondent-management, though did not adduce any oral evidence, filed the documents Exs.M1 to M5. After appreciation of the entire evidence on record, the Labour Court granted the following relief:

> "In the result, the petition is allowed in part and the respondent-management is directed to pay the petitioner with full back wages from the date of termination till the date he attained superannuation without any further increments and other attendant benefits and the petitioner is only entitled the last pay drawn by him on the date when he removed from service till he attained superannuation without any further benefits."

In this Writ Petition, the petitioner-workman seeks further relief of increments, attendant benefits revised pay scale etc.

Heard the learned counsel for the parties and perused the entire material made available on record including the impugned Award.

At the outset, I am of the opinion that the Labour Court has considered each and every aspect of evidence including the punishment imposed in respect of other persons involved in the same misconduct and came to the conclusion that in the nature of the misconduct alleged, the punishment of removal from service was disproportionate and as such, while exercising its powers under Section 11-A of the Act, set aside the removal order and passed the Award as noted above. The Award passed by the Labour Court does not call for interference of this Court under Article 226 of the Constitution of India.

The Labour Court felt that this is not a case of misappropriation and all the three charges are overlapping each other and the only charge that could be made out from all of them is negligence of the petitioner having not been fully devoted to the duties attached to the post. The Labour Court found that though the charges are same against the others also, enquiries were conducted separately by the management and some of them were let-off with deferment of increments or reduction of pay, as they admitted their guilt; whereas, in this case, the petitioner since protested the charges thinking that he is innocent, he was removed from service. It is clear case of discrimination under the principles of natural justice; therefore, the punishment imposed on the petitioner was shockingly disproportionate to that of the misconduct alleged and proved. In the meanwhile, the petitioner attained the age of superannuation on 1-7-1995 and, therefore, to meet the ends of justice on the peculiar facts of the case, the Labour Court directed payment of full back wages from the date of termination till the date of superannuation. In the facts and circumstances, I am of the considered view that the Labour Court rightly came to the conclusion that none of the charges framed against the petitioner are as to misappropriation of the amounts of the Corporation, all the charges are inter-connected and they disclose that the petitioner did not work with full devotion to duty and acted in a manner prejudicial to the interest of the Corporation. Once this is not a case of misappropriation or embezzlement of the property of the Corporation and

also in view of the fact that identical and similar charges framed against many other persons, were let off with a simple punishment of deferment of increments or reduction of pay, I am of the view that the Labour Court has not committed any error in coming to such conclusion, calling for interference of this Court under Article 226 of the Constitution.

However, the Labour Court while holding that others were let off with deferment of increments etc., has imposed a severe punishment of entitlement to the last drawn pay by the petitioner as on the date when he was removed from service till he attained the superannuation without any further benefits. It is brought to the notice of this Court that during the period the petitioner was out of service, there was a revision in the pay scales and the petitioner was denied totally as to the benefits of the said pay revision. In view of the above, I am of the considered opinion that the Award passed by the Labour Court is liable to be modified to be read as under:

"In the result, the petition is allowed in part and the respondent-management is directed to pay the petitioner full back wages from the date of termination till the date he attained superannuation without any further increments and other attendant benefits and the petitioner is entitled for fixation of his pay in the appropriate scale from the date of giving effect to the revised pay scales and he would draw the last drawn pay from the date of removal till the date of effecting the revised pay scales and thereafter, the pay fixed under the revised pay scales till the date of superannuation. It is needless to mention that the petitioner is also entitled for gratuity and other terminal benefits as per his eligibility."

Accordingly, the Writ Petition is disposed of. No costs.

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W.P.No.7722 of 1999

This Writ Petition is filed by the Management aggrieved by the very same Award dated 25-1-1999 made in I.D.No.73 of 1988 on the file of the Labour Court, Guntur.

For the reasons stated above, the impugned award does not require any interference at the hands of this Court. Accordingly, the Writ Petition is dismissed. No order as to costs.

11-7-2005

prk

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Presiding Officer, Labour Court,
Guntur.
2 Cotton Corporation of India, Rep. by its Branch Manager,
Arundalpet, Guntur District.

3 The Secretary, Labour Employment
Training and Factories (LAB-I) Department,

Government of A.P., Secretariat, Hyderabad.
4 2 CCs to Govt.Pleader for Labour, High Court Buildings, Hyderabad (OUT)
5 2 CD copies